

107TH CONGRESS
1ST SESSION

S. 32

To amend title 28, United States Code, to clarify the remedial jurisdiction of inferior Federal courts.

IN THE SENATE OF THE UNITED STATES

JANUARY 22, 2001

Mr. THURMOND introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 28, United States Code, to clarify the remedial jurisdiction of inferior Federal courts.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Judicial Taxation Pro-
5 hibition Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1)(A) a variety of effective and appropriate ju-
9 dicial remedies are available for the full redress of

1 legal and constitutional violations under existing law;
2 and

3 (B) the imposition or increase of taxes by
4 courts is neither necessary nor appropriate for the
5 full and effective exercise of Federal court jurisdic-
6 tion;

7 (2) the imposition or increase of taxes by judi-
8 cial order—

9 (A) constitutes an unauthorized and inap-
10 propriate exercise of the judicial power under
11 the Constitution of the United States; and

12 (B) is incompatible with traditional prin-
13 ciples of law and government of the United
14 States and the basic principle of the United
15 States that taxation without representation is
16 tyranny;

17 (3) Federal courts exceed the proper boundaries
18 of their limited jurisdiction and authority under the
19 Constitution of the United States, and impermissibly
20 intrude on the legislative function in a democratic
21 system of government, when they issue orders re-
22 quiring the imposition of new taxes or the increase
23 of existing taxes; and

24 (4) Congress retains the authority under article
25 III, sections 1 and 2 of the Constitution of the

1 United States to limit and regulate the jurisdiction
 2 of the inferior Federal courts that Congress has seen
 3 fit to establish, and such authority includes the
 4 power to limit the remedial authority of inferior
 5 Federal courts.

6 **SEC. 3. JUDICIAL TAXATION PROHIBITION.**

7 (a) IN GENERAL.—Chapter 85 of title 28, United
 8 States Code, is amended by inserting after section 1341
 9 the following:

10 **“§ 1341A. Prohibition of judicial imposition or in-**
 11 **crease of taxes**

12 “(a) Notwithstanding any other provision of law, no
 13 inferior court established by Congress shall have jurisdic-
 14 tion to issue any remedy, order, injunction, writ, judg-
 15 ment, or other judicial decree requiring the Federal Gov-
 16 ernment or any State or local government to impose any
 17 new tax or to increase any existing tax or tax rate.

18 “(b) Nothing in this section shall prohibit inferior
 19 Federal courts from ordering duly authorized remedies,
 20 otherwise within the jurisdiction of those courts, that may
 21 require expenditures by a Federal, State, or local govern-
 22 ment in any case in which those expenditures are nec-
 23 essary to effectuate those remedies.

24 “(c) In this section, the term ‘tax’ includes—

25 “(1) personal income taxes;

- 1 “(2) real and personal property taxes;
- 2 “(3) sales and transfer taxes;
- 3 “(4) estate and gift taxes;
- 4 “(5) excise taxes;
- 5 “(6) user taxes;
- 6 “(7) corporate and business income taxes; and
- 7 “(8) licensing fees or taxes.”.

8 (b) TABLE OF SECTIONS.—The table of sections for
 9 chapter 85 of title 28, United States Code, is amended
 10 by inserting after the item relating to section 1341 the
 11 following:

“1341A. Prohibition of judicial imposition or increase of taxes.”.

12 **SEC. 4. APPLICABILITY.**

13 This Act and the amendments made by this Act shall
 14 apply to cases pending or commenced in a Federal court
 15 on or after the date of enactment of this Act.

